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Report of the Secretary-General pursuant to Security Council resolution 2312 (2016)

I. Introduction

1. The present report is submitted pursuant to paragraph 15 of Security Council resolution 2312 (2016), in which the Council requested me to report on the implementation of the resolution, in particular with regard to the implementation of its paragraph 7.

2. The report covers developments since my previous report, of 7 September 2016 (S/2016/766), until 31 August 2017. The information and observations herein are based on submissions by Member States, regional arrangements and other relevant stakeholders. The United Nations system, the International Criminal Police Organization (INTERPOL) and the Panel of Experts established pursuant to Security Council resolution 1973 (2011) were also consulted.

II. Smuggling of migrants and trafficking in persons in the Mediterranean Sea off the coast of Libya[1]

3. Since the issuance of my previous report, men, women and children have continued to die or go missing at sea on their way to Europe. As at 31 August 2017, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) had recorded more than 2,410 deaths and disappearances in the Mediterranean Sea and 123,994 arrivals in Europe by sea in 2017. The so-called "central Mediterranean rou.e" from Libya to Italy continues to be the most active migratory route into Europe. In 2016, UNHCR and IOM recorded the arrivals of more than 181,500 people in Italy by sea, 90 per cent of whom had departed from Libya. As at 31 August 2017, some 99,105 people, originating largely from sub-Saharan African countries, had arrived in Italy in 2017.

4. The European Union naval operation (EUNAVFOR MED operation Sophia) has reported that, since the beginning of its mission in June 2015, and until 31 August 2017, the operation has rescued 39,818 persons in the southern central Mediterranean. The operation estimates that since October 2016 around 140,210 persons have been rescued by different vessels in the central Mediterranean Sea.

[1] Referred to herein as "smuggling and trafficking".

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5. According to EUNAVFOR MED operation Sophia, vessels operated by international non-governmental organizations conducted search and rescue operations just outside the Libyan territorial waters limit of 12 nautical miles. Some officials in Europe opined that search and rescue operations to prevent loss of life at sea could present a dilemma, by acting as a pull factor to those crossing irregularly and facilitating the task of smugglers who only require their vessels to reach the high seas. Push and pull factors and the operational context across the Mediterranean remain complex and a strictly evidence-based approach to the issue is needed. It is of paramount importance to underline that the first priority must always be to save lives and that the presence of search and rescue operations has undoubtedly prevented countless deaths.

6. As at 19 July 2017, IOM estimates that 11,122 persons have been intercepted and rescued by the Libyan Coastguard, coastal security and fishermen in 2017, while 348 human remains were retrieved along Libyan shores. The Office of the United Nations High Commissioner for Human Rights (OHCHR) expressed concern about abuses and violations against such persons by the Libyan Coastguard during search and rescue operations, which, in some instances, further endanger the lives of people in distress at sea. Intercepted or rescued migrants are rarely provided with life jackets. The United Nations Support Mission in Libya (UNSMIL) has documented the use of firearms, physical violence and threatening language by Coastguard officials during search and rescue operations, within and beyond the territorial sea of Libya, that induce panic among people in unseaworthy vessels seeking assistance. Other recorded behaviour includes jumping on board migrant vessels without warning, and colliding with vessels in distress. Such acts risk capsizing already unseaworthy boats and cause panic among people in distress, some of whom jump into the water without life jackets. According to UNSMIL and OHCHR, immediately following rescues or interceptions at sea, Coastguard officials routinely fail to identify and meet the specialized needs of migrants and asylum seekers in vulnerable situations, including pregnant women, unaccompanied minors, and those with disabilities or pre-existing medical conditions.

7. Organized transnational criminal networks continued to exploit the conflict and security situation in Libya to conduct their smuggling and trafficking operations, which in turn has fuelled instability and undermined governance structures. Existing networks that are used for the smuggling of migrants and refugees, as well as smuggling infrastructure and logistics, may also be used to clandestinely transport illicit goods such as fuel, drugs or weapons. The Panel of Experts established pursuant to Security Council resolution 1973 (2011) has also separately reported to the Security Council, under its mandate, on the different illicit sources of financing, such as the smuggling of migrants, arms and fuel, by armed groups and criminal networks in Libya (see S/2017/466). The Libya sanctions regime, in particular its arms embargo, the measures aimed at preventing illicit exports of petroleum, including crude oil and refined petroleum products, and the sanctions designation criteria, may apply to the acts and activities of smugglers and traffickers.

8. According to EUNAVFOR MED operation Sophia, individual fares on an inflatable boat can reach €1,000, while reports on the cost of travel on a wooden boat range from €1,500 to €3,000, depending on their size and the number of persons on board. Each rubber boat can accommodate approximately 120 persons, allowing migrant smugglers to make illicit gains of up to €120,000 for each rubber boat launched. Using larger wooden boats typically embarking 400 persons, it is estimated that migrant smugglers and traffickers could earn between €600,000 and €1.2 million per vessel. Smugglers generally conduct launches of up to five or more vessels at once.

9. The loss of life at sea is largely attributed to the use by smugglers of unseaworthy and overcrowded vessels that lack the capacity to reach European shores. The smugglers continue to profit from migrants seeking to reach Europe and to benefit from the dearth of safe and regular pathways for migration, as well as taking advantage of the desperation of those fleeing from conflict or persecution. Women and girls, and also men and boys, experience serious human rights abuses, including sexual violence at the hands of smugglers, traffickers and other criminal groups in and en route to Libya.

10. In resolution 2312 (2016), the Security Council recognized that among those being smuggled in the Mediterranean, in particular off the coast of Libya, there may be persons who meet the definition of a refugee under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, and stressed that the rights of migrants and asylum seekers must be respected under international human rights and refugee law. According to Eurostat data for persons arriving in Italy in 2016 from the seven most common source countries in West Africa (Nigeria, Guinea, Côte d'Ivoire, the Gambia, Senegal, Mali and Ghana), the average grant rate of some form of protection was 27 per cent, and among those arriving from Eritrea, Somalia and the Sudan, 70 per cent. This amounted to more than 68,500 nationals of those countries being granted protection in the European Union member States in 2016, including over 54,000 granted refugee status or subsidiary protection. The routes and the composition of groups arriving remain in flux and include persons in vulnerable situations, the majority of children arriving unaccompanied.

11. Since the adoption of Security Council resolution 2312 (2016), Member States have, unilaterally, bilaterally and multilaterally, including through regional organizations, taken measures to counter smuggling and trafficking off the coast of Libya and to strengthen search and rescue efforts in the Mediterranean Sea. These include the strengthening of border control agencies and border management through capacity-building and training, along with targeted deployment of naval assets and operations in the Mediterranean Sea.

III. Inspection and seizure of vessels off the coast of Libya and related efforts

12. As part of efforts to prevent and combat smuggling of migrants and trafficking in persons off the coast of Libya, Member States, both nationally or through regional organizations, have inspected and seized vessels under applicable international law and in the exercise of the specific authority provided through resolution 2312 (2016). States members of the European Union, with the exception of Denmark, are carrying out the naval operation EUNAVFOR MED operation Sophia in the central part of the southern Mediterranean Sea to identify, capture and dispose of vessels and assets used or suspected of being used by smugglers. In addition, in 2016/17 the operation trained 133 members of the Libyan Coastguard and Libyan Navy in coastguard functions, such as maritime law enforcement, and safe search and rescue operations, as well as human rights issues, aimed at ensuring better compliance with applicable human rights standards. The operation is also providing non-military training to enable Libyan Coastguard and Libyan Navy personnel to disrupt all kinds of illicit traffic and to save lives in the territorial sea of Libya. Experts provided by European Union member States, UNHCR, IOM, UNSMIL and the European Union Border and Coastguard Agency (Frontex), among other actors, supported the training.

13. On 25 July 2017, the Council of the European Union extended the mandate of the operation until 31 December 2018, entrusting the operation with additional

tasks, namely, to set up a monitoring mechanism of trainees to ensure the long-term efficiency of the Libyan Coastguard training, as recommended by OHCHR and UNSMIL in their report of 13 December 2016; to enhance the possibilities for sharing information on trafficking in persons with European Union member States' law enforcement agencies, Frontex and Europol; and to conduct new surveillance activities and gather information on illegal trafficking of oil exports from Libya in accordance with Security Council resolutions 2146 (2014) and 2362 (2017). In resolution 2362 (2017) the Council extended sanctions on illegal oil exports from Libya to include refined petroleum products, the smuggling of which also facilitates migrant smuggling and trafficking in persons.

14. On 4 July 2017, the Italian National Anti-Mafia Prosecutor and the Commander of EUNAVFOR MED operation Sophia launched the first European Observatory on Migrant Smuggling and Human Trafficking. To further assist in the investigation and prosecution of persons responsible for acts of smuggling and trafficking at sea, EUNAVFOR MED operation Sophia cooperates closely with, and provides information to, the Italian authorities, which exercise criminal jurisdiction. As at 31 August 2017, 117 persons suspected of the smuggling of migrants or facilitating such smuggling have been arrested or are being investigated by Italian authorities as a result of information provided, or action taken, by the operation. The operation reported that it has also disposed of 477 vessels by towing or transporting the vessels to Italy, whenever possible, in view of the potential added value to investigations and prosecutions. Otherwise, it disposed of them in line with relevant international law and standards, to avoid any risk to the safety of seafarers, navigation and the marine environment.

15. International law requires the disembarkation of persons rescued at sea to a place of safety. According to the European Union, no person rescued or apprehended by EUNAVFOR MED operation Sophia may be handed over to the authorities of non-European Union member States or disembarked in such States. The operation has issued a number of standard operating procedures on preventing sexual exploitation and abuse, disposal of vessels in compliance with environmental law, the treatment of persons rescued at sea, and the handling of suspected migrant smugglers and human traffickers. Particular attention is paid to vulnerable individuals, such as injured or sick persons, women and unaccompanied children. EUNAVFOR MED operation Sophia is in touch with the International Criminal Court, in order to share information relating to crimes against migrants in Libya and individuals involved in facilitating and financing illegal migration through Libya.

16. On 24 November 2016, EUNAVFOR MED operation Sophia signed a cooperation and information-sharing agreement with the United Nations Office on Drugs and Crime (UNODC), aimed at the identification and analysis of organized crime groups involved in the smuggling of migrants and trafficking in persons, in order to disrupt their business model. Meanwhile, contacts with INTERPOL were enhanced and a working arrangement agreed for enhancing cooperation and exchanging information with the Italian National Central Bureau. At the operational level, the Frontex operation Triton remains a key interlocutor for operation Sophia. EUNAVFOR MED operation Sophia seeks to deconflict its operations with the Libyan Coastguard and the Italian naval operation, Mare Sicuro, by exchanging information on a case-by-case basis. Since 2015, Mare Sicuro has been conducting maritime security operations in the central Mediterranean Sea, performing, inter alia, the task of deterring and countering criminal organizations carrying out illicit trafficking. On 30 May 2017, an administrative arrangement was signed with the Allied Maritime Command of the North Atlantic Treaty Organization (NATO) on cooperation between EUNAVFOR MED and operation Sea Guardian.

17. Broader cooperation is continuing between EUNAVFOR MED operation Sophia, international organizations, including the United Nations and its agencies, shipping companies, Member States and non-governmental organizations under the "Shared awareness and deconfliction in the Mediterranean" forum that was established by the operation in 2015. The forum gathers representatives from interested States and organizations involved in maritime security operations in the Mediterranean on a voluntary basis to exchange information and to coordinate and deconflict their activities. On 8 and 9 June 2017, EUNAVFOR MED hosted the fourth such forum, which was attended by 188 participants from 37 countries and 98 organizations.

IV. Support to Libya and related efforts to combat smuggling and trafficking

18. The Security Council, in its resolution 2312 (2016), called upon Member States to assist Libya, upon request, in building needed capacity to secure its borders and to prevent, investigate and prosecute acts of smuggling and trafficking through its territory and in its territorial sea.

19. On 25 January 2017, the joint communication of the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy on the central Mediterranean route, reaffirmed by the Malta Declaration on 3 February 2017, identified a set of priorities for 2017, with a specific focus on migration and refugee protection-related projects in Libya and North Africa. These include enhancing the combating of smuggling and trafficking networks along the migration routes, helping to manage migratory flows more effectively, saving lives, and improving the living conditions of refugees and migrants. As a first step, the European Union Trust Fund for Africa approved a €90 million programme consisting of two components: first, access to protection and assistance for all those in need, with the aim of expanding the protection space in Libya, focusing specifically on refugees and migrants — to be implemented by IOM, UNHCR and the United Nations Children's Fund (UNICEF); and second, stabilization, aimed at supporting local governance and socioeconomic development at the municipal level, in order to better integrate migrants and stabilize host communities — implemented by UNDP, the German Agency for International Cooperation (Deutsche Gesellschaft für Internationale Zusammenarbeit), IOM and UNICEF. On 28 July, the European Union Trust Fund for Africa adopted a programme of €46 million to strengthen border controls in Libya. In addition to these common efforts, the European Union and its member States continue to cooperate with IOM, UNHCR and other actors. Activities range from immediate humanitarian assistance, and the protection of refugees and migrants in vulnerable situations, to mapping and analysing migratory and displacement trends and patterns in Libya, as well as work on voluntary humanitarian returns from Libya to countries of origin.

20. On 19 June, the Foreign Affairs Council of the European Union confirmed its commitment to engage with the Group of Five for the Sahel (G-5 Sahel) (Burkina Faso, Chad, Mali, Mauritania and Niger) on migration in line with the five pillars of the Valletta Action Plan and the Partnership Framework. In particular, it expressed support for initiatives aimed at combating the smuggling of migrants and trafficking in persons, together with efforts to provide economic alternatives to communities along the main routes, monitoring possible alternative routes, and addressing the root causes of irregular migration and forced displacement. The regional approach also builds on cooperation within the G-5 Sahel. For instance, the G-5 joint force for securing sensitive border regions was at the heart of the third European Union-G-5 Sahel ministerial meeting held on 6 June 2017 in Bamako, where the European

Union announced a financial contribution of €50 million in support of such cooperation. The joint force will help to combat terrorism, organized cross-border crime and trafficking in persons.

21. On 4 July, the European Commission proposed an action plan to support Italy by reducing pressure along the central Mediterranean route. The action plan also foresees increased funding to enhance the capacity of the Libyan authorities to improve coordination of search and rescue activities, and to strengthen border controls in Libya.

22. On 17 July 2017, the Foreign Affairs Council of the European Union extended the mandate of the European Union Integrated Border Management Assistance Mission (EUBAM) in Libya until 31 December 2018. The Mission is planning for a possible future European Union engagement in the areas of advice and capacity-building on matters of, inter alia, criminal justice, migration and smuggling and trafficking, in support, and at the request, of Libya. EUBAM is currently in the process of establishing a light presence in Tripoli. The Foreign Affairs Council also introduced restrictions on the export and supply of inflatable boats and outboard motors to Libya.

23. The NATO maritime security operation "Sea Guardian" is currently performing three tasks in the Mediterranean Sea: providing support to maritime situational awareness, assisting with counter-terrorism at sea, and contributing to maritime security capacity-building. Through this, NATO is contributing to the maintenance of a secure and safe maritime environment, while supporting the Alliance's three core tasks: collective defence, crisis management and cooperative security.

24. The United Nations system and other entities also support the Government of National Accord and cooperate with those Member States providing assistance to Libya. In 2017, Canada contributed $1.5 million to the stabilization facility for Libya, administered jointly by the United Nations Development Programme and the Government of National Accord.

25. UNSMIL monitors the situation of migrants, including during and after interception and during detention, and has been raising its concerns with relevant interlocutors, including the Libyan Coastguard, the Libyan Directorate for Combating Illegal Migration and the European Union, urging an end to widespread and grave abuses. UNSMIL has provided gender awareness training to the Libyan Coastguard under the training programme of the EUNAVFOR MED operation Sophia. UNSMIL has also been reviewing its support to the Libyan Coastguard in line with the United Nations human rights due diligence policy on United Nations support to non-United Nations security forces. Since 2015, OHCHR and UNHCR have organized training sessions for the staff of European Union naval ships in the Mediterranean Sea on human rights in law enforcement, the protection and human rights of refugees and migrants, and the standards of treatment for all those rescued or intercepted at sea. UNHCR has also contributed to training for the Libyan Coastguard organized by EUNAVFOR MED operation Sophia.

26. In 2017, IOM has provided a series of training courses on human rights, human trafficking and smuggling, identification of vulnerabilities, and other humanitarian topics to Libyan officials. IOM, the Danish Refugee Council and UNHCR have promoted alternatives to detention among the Libyan authorities. Following the intervention of UNHCR, a total of 376 refugees and asylum seekers have been released so far in 2017, in addition to 600 in 2016. A series of workshops and discussions with the Libyan authorities, such as the Ministry of the Interior and the Ministry of Justice, have been held in this regard. However, more needs to be done to ensure that victims of trafficking, sexual and gender-based violence and

other serious human rights abuses are promptly identified and cared for and that age- and gender-sensitive services are provided to them.

27. UNHCR and IOM have held a number of technical consultations and capacity-building activities with the Libyan Coastguard, coast security, the Libyan Directorate for Combating Illegal Migration, and non-governmental organizations to consider issues relating to rescue at sea and the treatment of those rescued or intercepted upon disembarkation. These include establishing a mechanism to enhance communication and facilitate cooperation between the Libyan authorities and international and non-governmental organizations, in order to strengthen responses to situations of distress at sea and enhance predictability in the provision of humanitarian assistance and support upon disembarkation of persons rescued at sea. This mechanism has been reinforced in a standard operating procedure developed by the Technical Working Group consisting of Libyan authorities with support from IOM and UNHCR.

28. As part of a comprehensive approach to migration management, IOM carries out voluntary humanitarian return activities under several projects in Libya. As at 14 August 2017, 6,321 migrants have been assisted to return to their countries of origin by IOM. These include the orderly and humane return and reintegration of stranded migrants who are unable or unwilling to remain in host countries experiencing conflict or natural disaster, and who wish to return voluntarily to their countries of origin. IOM is also delivering tailored assistance to victims of trafficking and unaccompanied migrant children before they return to their countries of origin by providing shelter assistance, family tracing and medical support as well as reintegration assistance upon arrival.

29. UNHCR, with support from Member States, has significantly scaled up its operations in Libya and reinforced its response within a comprehensive regional strategy to mitigate protection risks along main migratory routes. In Libya, UNHCR identifies, registers and documents people in need of international protection, provides life-saving humanitarian assistance and seeks comprehensive solutions for the most vulnerable, whether at disembarkation points, detention facilities or through community development centres. UNHCR is engaging with Libyan authorities to promote the progressive development of a national protection framework and advocate for alternatives to detention. UNHCR also provides assistance to internally displaced persons, returnees and host communities, including through quick-impact projects and the delivery of humanitarian aid through local partners. In August 2017, UNHCR signed an agreement with the United Nations Population Fund for a population and city profiling exercise to generate area-based analysis to inform humanitarian stabilization efforts and recovery interventions. On a regional level, UNHCR is engaging with officials from neighbouring countries to develop protection solutions, including emergency transit facilities for refugees with specific needs and vulnerabilities.

V. International efforts to combat smuggling and trafficking

30. At the international level, the United Nations cooperates with and supports the efforts of Member States to counter smuggling and trafficking. The New York Declaration for Refugees and Migrants, adopted by the General Assembly on 19 September 2016, commits the international community to developing a global compact for safe, orderly and regular migration by 2018. As set out in annex II to the Declaration, the global migration compact will deal with international migration "in all its dimensions". My Special Representative for International Migration leads the efforts of the United Nations system in this regard, closely supported by IOM.

As part of the preparations, six informal thematic sessions are being held in Geneva (3), New York (2) and Vienna (1) between May and October 2017, along with regional and multi-stakeholder consultations. Following a stocktaking phase, Member States will begin to negotiate the global compact in February 2018. The New York Declaration further calls on States to consider developing non-binding voluntary guidelines for the protection of migrants in vulnerable situations.

31. The New York Declaration also commits States to the development of a global compact on refugees in consultation with States and all relevant stakeholders. Annex I to the Declaration is the comprehensive refugee response framework, which outlines the elements of a comprehensive response to refugee displacement based on principles of international cooperation and responsibility-sharing. In the Declaration UNHCR is called upon to develop and initiate the application of the framework in specific situations, which is now under way in a number of countries. The United Nations High Commissioner for Refugees is also requested to propose a global compact on refugees in his annual report to the General Assembly in 2018.

32. On 20 December 2016, the Security Council unanimously adopted resolution 2331 (2016), in which it condemned in the strongest terms trafficking in persons in areas affected by armed conflicts, and stressed that trafficking in persons undermines the rule of law and contributes to other forms of transnational organized crime, which can exacerbate conflict, foster insecurity and instability, and undermine development. The Council stressed that trafficking in persons in armed conflict and sexual and gender-based violence in conflict, including for the purposes of sexual slavery, sexual exploitation and forced labour, can be part of the strategic objectives and ideology of, and be used as a tactic by, certain terrorist groups. The Council encouraged Member States to consider that trafficking in persons in armed conflict in all its forms, including sexual violence in conflict, can cause large movements of refugees and migrants, and recognized that persons displaced by armed conflict, including refugees, can be especially vulnerable to trafficking. Member States that participated in the open debate recognized that human trafficking in conflict areas was a threat to international peace and security and that, since it was also used to finance the activities of terrorist groups, financial flows should be analysed and targeted sanctions imposed on individuals and groups that committed the crime of human trafficking.

33. The General Assembly has also continued to provide policy guidance, in its annual resolutions on oceans and the law of the sea, on the issue of migration by sea. Apart from mandating the duty to render assistance and establish and improve their search and rescue capabilities, in accordance with the United Nations Convention on the Law of the Sea and other relevant and applicable international instruments, the law of the sea also engages States' responsibilities to address, to the extent feasible, the issue of unseaworthy ships and small craft within their national jurisdiction, and to detect and suppress transnational organized criminal activities, including the smuggling of migrants and trafficking in persons. The Assembly has continued to underscore the need to develop comprehensive approaches to international migration through enhanced international cooperation at all levels and the importance of full respect for the principle of non-refoulement in accordance with applicable international law.

34. In May 2017, UNODC organized a regional workshop in Malta for judges and prosecutors on strengthening judicial cooperation against the smuggling of migrants in the Mediterranean, which was also attended by magistrates and officials from the national authorities responsible for international cooperation from coastal States of the Mediterranean Sea basin, including Libya. In implementing its strategy to address the smuggling of migrants across the Mediterranean, and within the framework of the UNODC-European Union Global Action to Prevent and Address

Trafficking in Persons and the Smuggling of Migrants (2015-2019), UNODC cooperated with Egypt and Morocco to assess their responses and assisted Egypt in the development of its new law against smuggling of migrants, which was promulgated on 7 November 2016. With regard to enhancing national capacity and legislative frameworks, around 15 capacity-building activities were undertaken by UNODC in North Africa and the Middle East in 2016 and 2017, including in countries constituting transit points located on the Mediterranean coast. In addition, UNODC trained 24 Libyan officials in Tunisia in February 2017 on legislative frameworks, the prosecution of migrant smuggling cases, as well as the rights and protection needs of asylum seekers and refugees, so as to enhance the country's capacities to deal with and prevent migrant smuggling. UNODC also supports countries of origin and transit along the route to the Mediterranean coast. In East Africa, UNODC has provided capacity-building assistance to criminal justice professionals on investigating and prosecuting human trafficking and migrant smuggling cases; legislative assistance has been provided to Somalia, and initial capacity-building activities are being rolled out with the Government of Eritrea. In West Africa, UNODC is supporting police and gendarmerie training institutes in several Member States in order to integrate modules on smuggling and trafficking into national training curricula, and works on strengthening the capacity of prosecutors from West Africa to cooperate in migrant smuggling cases happening along this route. These activities are implemented within the framework of the UNODC regional strategy for combating trafficking and smuggling in West and Central Africa, covering the period 2015-2020.

35. UNODC regional programmes, strategies and dedicated projects also supported Member States globally. Among them, from June 2016 to July 2017, more than 20 major technical assistance activities provided support to some 70 countries and trained in excess of 770 criminal justice practitioners and government officials in effectively preventing and prosecuting trafficking and smuggling. UNODC further assists Member States in countering the business model of organized criminal groups by enhancing their capacities to trace, freeze and confiscate proceeds acquired through smuggling and trafficking, together with strengthening the coordination and sharing of information among relevant agencies.

36. UNHCR is involved, both globally and across the Mediterranean, in enhancing State capacity to prevent persons under its mandate from falling victim to human trafficking. As part of its efforts, UNHCR supports national authorities in building fair and efficient asylum procedures, and establishing or maintaining protection-sensitive entry systems that include adequate identification and referral mechanisms to, inter alia, ensure that asylum seekers and refugees at risk, or who are victims of trafficking, are identified and referred to UNHCR and provided with protection and access to solutions. UNHCR implements these and other activities under its Strategy and Regional Plan of Action on Smuggling and Trafficking from the East and Horn of Africa Region, as well as through participation in regional consultative processes such as the Rabat and Khartoum Processes and the African Union-Horn of Africa Counter-Trafficking Initiative. In July 2017, UNHCR launched two supplementary appeals to enhance its operational capacity in Libya and in countries along the central Mediterranean route. Among initiatives detailed within the two appeals, UNHCR plans to identify opportunities to scale up the resettlement of vulnerable refugees from Libya, increase the scope of humanitarian interventions for refugees and internally displaced persons in the country, and provide effective ways and means to protect refugees and asylum seekers in countries along the routes leading to Libya.

37. In 2016, OHCHR conducted monitoring missions to transit and border locations in Europe in order to monitor and identify the human rights protection

gaps faced by migrants in transit and at destination, including migrants who had crossed to Europe from Libya.

38. The International Maritime Organization (IMO) maintains that the international legal framework for the rescue of persons at sea is sound but did not envisage, nor was designed for, large movements of refugees and migrants by sea. Although IMO, UNHCR and the International Chamber of Shipping have developed guidance on rescue and on large-scale rescue operations at sea, IMO member States maintain that managing the situation ashore before migrants are subjected to danger at sea, and addressing the root causes of unsafe mixed migration by focusing on creating conditions for increased employment, prosperity and stability by enhancing the maritime sector and sustainable blue economy in developing countries, is the key to the issue.

39. INTERPOL assists Libya within its project on vulnerable communities, which comprises elements on migrant smuggling, trafficking in persons and crimes against children and covers North African countries, including Libya. The project aims to enhance the skills and expertise of law enforcement and other criminal justice practitioners, build and consolidate global networks of experts against people smuggling, and conduct operations based on improved skills and best practices. In May 2017, three police officers from Libya participated in a one-week training course in Madrid.

VI. Key issues

40. Throughout their journey, before and after they cross the Mediterranean Sea, men, women and children are at high risk of abuses. According to OHCHR and UNSMIL, migrants and refugees rescued or intercepted at sea by the Libyan Coastguard off the coast of Libya are handed over to the Directorate for Combating Illegal Migration, where they reportedly face indefinite detention in dire and inhumane conditions without the possibility of judicial review.

41. In detention facilities, controlled by either the Directorate for Combating Illegal Migration or directly by armed groups, migrants and refugees are at significant risk of torture and other ill-treatment, forced labour, sexual violence and exploitation. Detainees are also at risk of being forcibly returned to their country of origin or a third country without any due process or consideration of their individual circumstances. Women and girls are particularly vulnerable to sexual violence and exploitation at the hands of officials, members of armed groups, smugglers and traffickers.

42. The conditions of detention in most facilities are characterized by chronic severe overcrowding, poor hygiene, and a lack of access to basic necessities or adequate medical care. Undernutrition in adults and children is rampant, particularly in facilities outside Tripoli. In some facilities, the conditions of detention in themselves may amount to torture or other ill-treatment. Detainees are commonly denied the opportunity to communicate with their relatives and severe delays in visits by consular representatives have been reported.

43. Outside of the context of detention, refugees and migrants also face exploitation, abduction, forced labour, extortion, torture including to death, and other violence while in Libya. Hospitals and morgues across Libya routinely receive bodies of migrants from sub-Saharan Africa, uncovered in the desert, forests and streets. Some bear gunshot wounds; others seemingly died as a result of thirst or suffocation. IOM has reported cases of persons from sub-Saharan Africa detained by armed groups in so called "connection houses" before they are sold to traffickers.

Operations to counter smuggling must ensure that effective police and criminal justice protection is provided to all persons and that their rights are ensured.

44. The precarious situation of migrants and refugees in Libya is aggravated by the conflict and insecurity in Libya, where criminal groups exploit the security situation while the process of national reconciliation continues. Addressing the perilous situation for migrants and refugees in Libya thus requires addressing the very reasons for their insecurity — both in terms of the push factors, including poverty and conflict in their home countries, and in terms of the context in Libya itself, where the Libyan political process lacks a broad base of support and progress remains stalled. In order to successfully work towards sustainable peace and security, there must be a renewed push for convergence among international, regional and domestic actors, including civil society, women and youth. The conflict and violence in Libya have resulted in a high number of internally displaced persons. According to IOM, as at 29 June 2017, some 240,000 persons are internally displaced in Libya. Some 249,300 who were previously displaced have returned to their homes. Despite the impact of conflict on civilians, only a limited number of Libyans have to date sought protection abroad as refugees.

45. As noted in my previous report, Libya is still not party to the 1951 Convention relating to the Status of Refugees. It is, however, a signatory to the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, of 1969. Despite this, it has yet to adopt asylum legislation or establish asylum procedures. Libya is also a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, although it has not reported to the Committee on Migrant Workers since ratification — the initial report has been due since 2005. Under Libyan law, all irregular entry, stay or departure is criminalized. There are several laws and decrees that regulate immigration in Libya, but no cohesive legal framework on migration management, including smuggling and trafficking, is currently in place. OHCHR and UNSMIL called on Libyan authorities to release the most vulnerable migrants held in detention, to end the detention of all migrants, and to amend Libyan legislation to decriminalize irregular migration.

46. When men, women and children are intercepted or rescued off the coast of Libya, it is of the utmost importance to ensure their continued security and safety, as required by international law, including the prohibition of refoulement. UNHCR has urged States to refrain from returning to Libya any third-country nationals intercepted or rescued at sea, and to ensure that those in need of international protection are able to gain access to fair and effective asylum procedures upon disembarkation. UNHCR does not consider that Libya currently meets the criteria to be designated as a place of safety for the purpose of disembarkation following rescue at sea.

47. In the light of the continuing human rights violations and abuse that men, women and children on the move face in Libya, there is particular concern over the lack of systematically integrated human rights monitoring and reporting mechanisms by the Libyan Coastguard and other State actors dealing with migrants and refugees, as well as limited access available to the United Nations and non-governmental organizations to conduct independent human rights monitoring.

48. According to IMO, large-scale migration by sea presents a range of challenges to the maritime sector and seafarers. More than 80 per cent of global trade moves by sea, so that any disruption to the maritime part of the supply chain constitutes a risk to national and regional economies. Despite the welcome increase in government-funded resources and the activity of non-governmental organization vessels, the number of merchant ships involved in rescue operations has remained relatively

constant since 2015, and the average number of persons rescued by each merchant ship remains over 110. In 2016, a total of 381 merchant ships were diverted; of those, 121 were involved in the rescue of 13,888 people. Merchant seafarers continue to bravely perform their duties of rescue, although the presence of untrained and distressed persons on board presents risks to both the seafarers and those they rescue.

49. Smuggling and trafficking also have an impact on the fisheries sector in Libya, particularly fishing fleet operations. According to the Food and Agriculture Organization of the United Nations, the negative effects on the fisheries sector tend to occur when vessels are scuttled, breaching international environmental conventions.

VII. Observations

50. I highly commend the invaluable search and rescue efforts of the brave men and women who risk their lives to save others, as part of national authorities, the merchant fleet, civil society or the communities along the shores of the Mediterranean Sea, including EUNAVFOR MED operation Sophia. I remain deeply concerned at the high number of men, women and children who die or go missing in the Mediterranean Sea. Some Member States shoulder disproportionate responsibility in managing the situation and I appeal to countries in the developed world to show much stronger solidarity with countries of first asylum and transit. The need for safe passage and protection has to be met, rooted in cooperation among countries of origin, transit and destination and based on international solidarity. In this respect, it is also important to underline the necessity of constructive engagement with non-governmental organizations, taking into account their important contribution to these efforts.

51. Efforts to counter smuggling and trafficking must be embedded in cooperative global efforts that respond to displacement and migration by addressing their structural drivers, in particular in countries of origin. In the New York Declaration for Refugees and Migrants, adopted on 19 September 2016 at the high-level plenary meeting of the General Assembly, Member States favoured an approach to addressing protracted crises that would reduce vulnerability, combat poverty, and improve self-reliance and resilience. It is crucial to prevent and resolve these crises without further delay. Prevention means early action and requires inclusive and sustainable policies. Failure to act early multiplies suffering, while continued displacement exacerbates the political tensions that need to be overcome. Addressing the root causes in the countries of origin that compel so many people to take this dangerous journey requires strengthening democracy; building stronger, more resilient and accountable State institutions; ensuring adequate checks and balances; supporting inclusive and sustainable economic development; promoting the rule of law; and working to establish effective democratic control over the armed forces.

52. Despite laudable progress in democratic consolidation, the security situation in West Africa and the Sahel, exacerbated by terrorism and violent extremism, remains a cause for concern. These factors, combined with climate change, an increase in the population of young people and unemployment and unchecked urbanization, constitute some of the key drivers underpinning the surge in irregular migration and trafficking in persons. Future action should therefore also focus on tackling people smuggling in source and transit countries in compliance with international human rights standards, and supporting sustainable economic development and good governance. The 2030 Agenda for Sustainable Development provides a critical framework for understanding and organizing efforts that would sustain peace and

minimize the drivers of irregular migration. Furthermore, the implementation of targets, such as ending violence and discrimination, combating all forms of organized crime and trafficking, promoting the rule of law, and ensuring equal access to justice for all, will help to address the root causes of forced displacement.

53. I urge the Government of National Accord to improve the protection and conditions for refugees and migrants in Libya, in particular to ensure that people are placed in detention only in accordance with international standards and due process of law, in conditions allowing for basic standards and needs to be met, and in parallel to efforts to put in place adequate reception conditions and alternatives to detention with a priority on the release of those most vulnerable. I also call upon it to effectively implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and to report regularly on the implementation, and also to consider acceding to other relevant international instruments, including the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, adopting an asylum framework and decriminalizing irregular migration.

54. I call on destination countries beyond Libya to ensure that any training provided to Libyan institutions that engage with migrants and refugees is accompanied by careful vetting and comprehensive efforts to protect their human rights, including efforts to end the practice of their arbitrary detention, improve their treatment in detention, and establish post-training monitoring mechanisms. I appeal to Member States to manage their borders in a protection-sensitive way, not to refuse entry to those seeking asylum and those who are in need of protection under international human rights and refugee law, not to send any person back to a place where they might face persecution, torture, arbitrary detention and other human rights violations, to increase resettlement quotas and other pathways to protection, to grant international protection to those fleeing persecution, armed conflict or violence, as well as to grant appropriate forms of protection to migrants in vulnerable situations. All measures to counter smuggling and trafficking have to be carried out in full respect of international human rights law. I commend Member States for providing support to build the capacity of the Government of National Accord to prevent the proliferation of smuggling and trafficking, including at sea. Such capacity-building efforts have to include support for ensuring the protection of human rights of asylum seekers, refugees and migrants after their interception at sea, including through the establishment of a coordinated monitoring mechanism.

55. In all efforts to prevent and counter smuggling and trafficking, it is of the utmost importance to adopt policies and processes that are sensitive to the immediate needs of all persons who have been exposed to physical or psychological danger during their journey, whether by land or by sea, and regardless of their status. Children and women in situations of vulnerability are particularly exposed to these risks throughout all phases of their journey, including rescue operations, inspections and seizures of vessels and transfers to, and disembarkations at, places of safety, as well as throughout the process of status determination. Tailored approaches and gender-sensitive facilities should be provided to them. From a protection perspective, the absence of female guards at detention centres, together with the lack of women's participation generally in migrant response institutions, is part of the problem. More efforts are also needed to identify and provide protection to victims of trafficking, in particular women and girls, following their arrival in Europe.

56. I appeal to all Member States to engage positively in the development of the global compacts on refugees and migration, and to define adequate policies that are assumed by the whole of the international community, respecting the United Nations Convention on the Law of the Sea, relevant international law and human rights

instruments, and taking into account the legitimate interests of States, but also the legal obligations of the refugee protection regime and the opportunities that are generated by human mobility. Not all people on the move may fall within the legal category of a refugee, but refugees and migrants have the same universal human rights and fundamental freedoms and many of those travelling together share similar individual or situational vulnerabilities, irrespective of their legal status or the reasons that compelled them to move. Migrants may be in specific need of protection interventions, which are distinct from the protection provided by international refugee law. Only with improved migration governance — international cooperation for regular and safe migration pathways, and protection-sensitive entry procedures — can we better respond to the needs of those making these perilous journeys. In the meanwhile, the human rights and protection needs of all refugees and migrants, including migrants in vulnerable situations, must be adequately addressed, and saving lives must remain our absolute priority.